

**BOARD FOR PROFESSIONAL ENGINEERS,
LAND SURVEYORS, AND GEOLOGISTS**

FINAL STATEMENT OF REASONS

Hearing Date: No Hearing Scheduled

Subject Matter of Proposed Regulations: ASBOG Examination Fees, Abandoned Applications, Postponements, and Examinations

Section(s) Affected: Title 16, California Code of Regulations (CCR) sections 3005 (Fees), 3024 (Abandoned Applications), 3024.5 (Postponements), 3026 (Unqualified Applicant: Refund of Examination Fee), and 3031 (Examinations: Geologist-in-Training, Professional Geologist, Professional Geophysicist and Specialty Certification).

Updated Information

The Initial Statement of Reasons is included in the rulemaking file. The information contained therein is updated as follows:

The initial comment period for this rulemaking was from November 10, 2022, to December 27, 2022, during which time one comment was received by the Board. No hearing was requested nor held for this rulemaking. This rulemaking was approved by the Board for Professional Engineers, Land Surveyors, and Geologists at its February 2, 2023, meeting.

The Board would like this rulemaking regulation to be effective on filing with Secretary of State as requested on its form STD 400. The first computer-based testing administration for ASBOG Fundamentals of Geology (FG) and Practice of Geology (PG) was scheduled for March 16 and March 17, 2023, as referenced from the ASBOG.org website. Therefore, the Board is requesting an earlier effective date in order to prevent confusion to the examinees and applicants when they read conflicting information related to ASBOG Examinations. This will also keep the regulations up to date due to the transition of the examinations to computer-based testing.

Local mandate

A mandate is not imposed on local agencies or school districts.

Business Impact

The Board has made an initial determination that this proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

This proposed regulation will not affect small businesses. Although small businesses owned by licensees of the Board may be impacted, the Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

Economic Impact Assessment

As described in the Notice, the Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Fiscal Impact

The regulations are anticipated to result in workload costs savings and reduced revenues to the Board.

The Board currently administers two examinations per year with staffing costs of approximately \$17,400, plus site rental costs of \$16,000. As a result, the regulations are estimated to result in a total cost savings of approximately \$35,800 per year. Additionally, applicants will no longer pay exam fees to the Board.

Currently, the Board collects \$200 and \$250 for each Fundamentals of Geology (FG) and Practice of Geology (PG) examination, which is passed onto ASBOG. The Board estimates reduced revenues of \$55,400 (FG) and \$45,000 (PG) per year. Because the full amount of FG and PG examination fee revenues is currently passed onto ASBOG, the regulations do not result in a reduced fund balance reserve to the Board. The regulations do not result in costs or savings in federal funding to the state.

Anticipated Benefits of this Proposal

The Board anticipates that amending 16 CCR 3005 3024, and 3031, adding 16 CCR 3024.5, and repealing 16 CCR 3026 will remove any confusion caused by the existence of regulations that address processes that are no longer relevant.

This regulatory proposal aligns the Board's regulations with the transition of the administration of the national exams to ASBOG and computer-based testing, which will allow greater access to applicants. By updating these sections, the public will be better protected as applicants for licensure will be examined via the most up-to-date method, without outdated references remaining in the Board's regulations, which benefits the public health. Moreover, it furthers the goal of the Board's mission statement, which is to

protect the public's safety and property by promoting standards for competence and integrity through licensing and regulating the Boards' professions.

Consideration of Alternatives

No reasonable alternative that was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Objections or Recommendations/Responses

The proposed text was made available to the public for comment from November 10, 2022, to December 27, 2022. One public comment was received during the 45-day public comment period.

November 13, 2022, Comments from Scott Borg

Comments were received from Scott Borg, a Registered Geologist, via email.

Summary of Borg Comments:

Dr. Borg indicates that he believes the proposed updates to the regulations are appropriate and the explanations sound, with one exception. He indicates that the removal of the language "in the absence of special circumstances" from Section 3024 relating to abandoned applications takes away the Board's ability "...to address potential problems from foreseeable, albeit low probability, circumstances..." relating to the provision that only two postponements may be granted before an application is considered abandoned. Dr. Borg provides a few example scenarios. Additionally, he expresses concerns with applicants having to request a postponement in the event the examination administration is cancelled by the Board or its examination administrator. He also suggests that the Board consider delegating, with high-level guidance from the Board, the authority to consider and grant postponements to ASBOG.

Board Response to Borg Comments:

The Board rejects these comments and no changes will be made to the proposed regulatory text. "Unforeseen circumstances beyond the applicant's control" is one of the reasonable causes for being granted a postponement that is included in the proposed language, which does provide for consideration by the Board of situations that may occur that do not necessarily fall within the other areas that are also reasonable causes to grant a postponement. Additionally, existing regulations for geologists and

geophysicists provide that an application will be considered abandoned if the applicant fails to appear within the next two subsequent examinations without obtaining a postponement, and existing regulations for engineers and land surveyors provide those two postponements may be granted per application. There is no historical evidence to indicate that applicants have needed more than two postponements of scheduled examinations. As such, there is not sufficient justification to support increasing this number. Additionally, it is necessary to provide applicants with a definitive number of postponements of scheduled examinations that may be granted so that they can make determinations on how to proceed with scheduling their examinations. Furthermore, it is proposed to change the time frame in which the applicant may request a postponement to allow them up to 10 days after the examination, which addresses situations that may occur closer to the examination date than the 5 to 50 days prior to the examination that existing regulations provide. If a scheduled examination is cancelled by the Board or its examination administrator, it is considered that the examination was never scheduled. Therefore, it is not necessary for individual applicants to request a postponement because there was no scheduled examination and nothing to postpone. Finally, ASBOG does not provide the service of considering or granting postponements; this is the responsibility of the Board. As such, it is not an option for the Board to consider delegating this authority to ASBOG.

Finding of Necessity

There are no reports required by this regulatory proposal.

Incorporation by Reference

There are no documents incorporated by reference.